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10/823,133

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Andrew Austin

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EXAMINER

HARRIS, DEXTER L

ART UNIT

PAPER NUMBER

4137

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,133

Applicant(s)

AUSTIN, ANDREW

Examiner

DEXTER HARRIS

Art Unit

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Acknowledgements

1. Examiner acknowledges Applicant's May 2, 2008 response to the March 28, 2008 Restriction Requirement in which Applicant provisionally selects Claims 1-13 without traverse for continued examination.

Status of Claims

2. *Claims 1 – 13 have been examined and are pending.*

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Sloane et al., US 6,434,530 B1, hereinafter Sloane.

5. As per Claim 1, Sloane anticipates:

- a housing having a user surface and a mounting surface (column 9, lines 44 - 60, column 10 lines, 57 – 65), wherein the mounting surface is

adapted to cooperate with a store shelf; (storage rack 70 for holding each mobile interactive apparatus 20: column 5, line 61 – column 6, line 19).

- a display device affixed adjacent to the user surface (column 9, lines 44 - 60) and communicatively connected to a user input device (column 12, lines 5 - 13);
- a control unit having a processor, wherein the control unit is communicatively connected to the display device and the user input device (column 12, lines 1 - 32); and
- a control routine executed on the processor and configured to control the display device (column 12, lines 1 – 32) to gather at least one piece consumer information from the user input device (column 15, line 64 – column 16, line 4).

6. With respect to Claim 13, Sloan anticipates:

- the control routine is configured to display a customized advertising message based on gathered consumer information ("received information can be formulated to influence the article selection decisions: column 4, lines 29 – 40)

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 7 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane.

9. As per Claim 2, Sloane does not explicitly disclose a thermal printer. However, Sloan does teach a printer (column 6, lines 26 – 28). Although, Sloane does not particularly recite a “thermal” printer, the difference is a mere and equivalent change in technology that does not alter function and which yield predictable results. As such it would have been obvious for one of ordinary skill in the art at the time of the claimed invention to exchange one for the other in order to meet the specific needs or constraints imposed by the operational circumstances of the specific environment or location. Ex parte Smith, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)

10. With respect to Claim 7 - 9, Sloane teaches:

- a network interface communicatively connected to the processor.

(column 12, lines 1 – 32)

- a. wherein the network interface is a powered local area network interface to the control unit and display device (column 12, lines 1 – 32).

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Sloane does not teach a “cellular” communications network interface device. Although Sloane does not particularly recite a “cellular” communications network interface device, the difference is a mere and equivalent change in technology that does not alter function and which yield predictable results. As such it would have been obvious for one of ordinary skill in the art at the time of the claimed invention to exchange one for the other in order to meet the specific needs of their respective location and environment. Ex parte Smith, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)

11. Claims 3, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane in view of Schulze, US 6,233,564 B1, hereinafter Schulze.

12. As per Claim 3, Sloan discloses the claim limitations as discussed in the analysis for Claims 1 and 2 (paragraphs 4 – 10 of this Office Action). However Sloane does not explicitly teach:

- printer prints a reward in response to the gathered consumer specific information

However, Schultz teaches:

- printer prints a reward in response to the gathered consumer specific information (column 11, lines 38 – 42)

It would have been obvious for one of ordinary skill in the art at the time of Applicant's claimed invention to enable the system and printer to generate coupons. The motivation to do so includes but is not limited to increasing customer satisfaction and or retention

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by providing an immediate benefit to the customer at or upon purchase (column 3, lines 23 - 31).

13. As per Claims 11 and 12, Schulze discloses:

- the control routine is configured to gather consumer specific information by presenting a first question on the display device and receiving an input from the user input device (column 12, lines 20 – column, 13, line 4).

a. the research device of claim 11, wherein the control routine is configured to gather consumer specific information by presenting a second question based on the input received in response to the first question (column 12, lines 38 – 40).

14. Claims 4-6, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sloane in view of Senn, US 2002/0196204 A1, hereinafter Senn.

15. As per Claims 4 - 5, Sloane teaches:

- A reader adapted to read the at least one piece of consumer information (barcode scanner **218**: column 9, lines 56 – 63).

Sloane does not explicitly teach:

- A reader...wherein the reader is a combination barcode and magnetic strip reader

However, Senn discloses:

- combined barcode and magnetic strip reader (paragraph [0040]).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's claimed invention to modify Sloane's patented invention to incorporate Senn's magnetic strip reader. The rationale for doing so includes but is not limited to providing the means for the claimed device to exchange data / information with credit, smart, store and /or debit cards for conducting purchase transactions.

16. As per Claim 6, Sloan discloses:

- A reader...wherein the reader is a radio frequency identification tag reader (column 11lines 26 – 57)

17. Concerning Claim 10, Senn discloses:

- solar cell adapted to provide electrical power and communicatively connected to the display device and the control unit (paragraph [0040]).

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEXTER HARRIS whose telephone number is (571)270-5296. The examiner can normally be reached on M-Th: 7:00-5:30.

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19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DEXTER HARRIS/

Examiner, Art Unit 4137

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 4137